

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 09-3726(DSD/AJB)

Otha Eric Townsend,

Petitioner,

v.

ORDER

Warden John King, Lori
Swanson, Attorney General,

Respondents.

This matter is before the court upon petitioner Otha Eric Townsend's ("Townsend") pro se objections to the January 11, 2010, report and recommendation of Magistrate Judge Arthur J. Boylan. In his report, the magistrate judge recommends that Townsend's December 30, 2009, petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied and dismissed with prejudice because it is time-barred.

The court reviews the report and recommendation of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b). After a de novo review, the court finds that the magistrate judge correctly determined that the statute of limitations governing Townsend's habeas petition expired on April 24, 1997. See 28 U.S.C. § 2244(d)(1) (one-year statute of

limitations applies to habeas corpus petitions filed by state prisoners). Townsend's petition falls well outside of this time period. Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner's objections [Doc. No. 5] to the magistrate judge's report and recommendation [Doc. No. 4] are overruled;

2. The magistrate judge's report and recommendation [Doc. No. 4] is adopted in its entirety;

3. This action is dismissed with prejudice; and

4. Pursuant to 28 U.S.C. § 2253(c)(1)(A), the court denies a certificate of appealability in this case.

Dated: February 9, 2010

s/David S. Doty
David S. Doty, Judge
United States District Court